

GN



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,954	09/22/2000	David Russell Miller	32973	2277

116 7590 11/29/2002

PEARNE & GORDON LLP  
526 SUPERIOR AVENUE EAST  
SUITE 1200  
CLEVELAND, OH 44114-1484

EXAMINER

SOTOMAYOR, JOHN

ART UNIT PAPER NUMBER

3714

DATE MAILED: 11/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/667,954

Applicant(s)

MILLER, DAVID RUSSELL

Examiner

John L Sotomayor

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 August 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s),    is/are withdrawn from consideration.
- 5) ☐ Claim(s)    is/are allowed.
- 6) ☒ Claim(s) 1-23 and 25-42 is/are rejected.
- 7) ☐ Claim(s)    is/are objected to.
- 8) ☐ Claim(s)    are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on    is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No.   .  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s).
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other:

## **DETAILED ACTION**

### ***Response to Amendment***

1. In response to the amendment filed August 29, 2002, claim 24 is cancelled, and amended claims 1-23 and 25 and the newly added claims 26-42 are pending.

### ***Claim Rejections - 35 USC § 112***

2. Claim 30 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The wording of the claim causes confusion and renders the claim vague and indefinite.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Art Unit: 3714

5. Claims 1-2,9-10,25, 29, 33-35,37 and 39 are rejected under 35 U.S.C. 102(e) as being anticipated by Derzay et al (US 6,434,572).

6. Regarding claim 1, Derzay et al discloses a computer system for performing Internet based testing including a central processing site with a web server and a database with examination content (Col 5, lines 8-20 and Col 8, lines 14-28), a client computer with a web browser connected to the Internet for beginning a session and running an examination ( Col 8, lines 14-28), and web server session management including a unique file allocated to a candidate in each examination session ( Col 13, lines 40-65).

7. Regarding claim 2, Derzay et al discloses that each test unit is stored in a separate file for each individual test taker for security of the exam. These files are stored on the web server (Col 10, lines 28-37).

8. Regarding claim 9, Derzay et al discloses administration of an examination over the Internet provided from a web server comprising logging in a candidate via the web browser, beginning an examination session, receiving and displaying examination content, and automatically maintaining state of the candidate's examination session through a unique file (Col 13, lines 20-65 and Col 14, lines 1-20).

9. Regarding claim 10, Derzay et al discloses that the unique communication file is stored on the web server (Col 13, lines 45-47).

10. Regarding claim 25, Derzay et al discloses a method of providing and examination content comprising providing examination content to a browser which a candidate will access through a browser (Col 8, lines 15-27), administering the web browser (Col 8, lines 60-65), evaluation of the result of an examination for the candidate, selecting a next examination content

Art Unit: 3714

based on evaluation on the web server during examination session and assigning to the candidate a new examination content (Col 11, lines 16-65 and Col 12).

11. Regarding claims 27 and 31, Derzay et al discloses that a virtual private network is established between the central processing site and the client computer (Col 10, lines 8-10).

12. Regarding claims 29 and 33, Derzay et al discloses a system in which the web server dynamically evaluates examination activities as they occur and transmits next examination content to the candidate as required during the examination (Col 14, lines 13-19).

13. Regarding claim 34, Derzay et al discloses that candidate log files may be managed, including creation and update, by the examination system (Col 7, lines 44-50).

14. Regarding claim 35, Derzay et al discloses that a log file may be recovered for a particular examination session using the unique file associated with a specific examination action (Col 3, lines 27-37).

15. Regarding claim 37, Derzay et al discloses a method of internet based testing that provides examination content to a web browser, repeatedly records the stat of an examination session, records information onto a log file (Col 13, lines 20-65) and in which a log file may be recovered for a particular examination session using the unique file associated with a specific examination action (Col 3, lines 27-37).

16. Regarding claim 39, Derzay et al discloses that all examination activities, including session management, may be implemented in a plurality of languages based upon the country in which the system is to be implemented (Col 12, lines 35-40).

Art Unit: 3714

***Claim Rejections - 35 USC § 103***

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

19. Claims 3-8, 11-16, 17-23, 28, 32, 38 and 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Derzay et al in view of Sonnenfeld (US 6,112,049).

20. Regarding claim 3, Derzay et al discloses the process of state management from a client computer (Col 13, lines 38-65). Derzay does not specifically disclose this is done via the state management file known as a cookie. However, Sonnenfeld teaches a means of communication between the web server and the client computer consisting of a query sequence that may contain plain text references to objects for use in building and maintaining HTML documents across the link (Col 11, lines 24-28). This method of communication meets the definition of communication via "cookies" as set forth on page 8, line 30 of the applicant's specification. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide the state management for the test via the state management file known as a cookie.

Art Unit: 3714

21. Regarding claim 4, Derzay et al discloses the process of state management from a client computer including a circuit for transmitting the updated state management messages to the web server (Col 13, lines 38-65). Derzay does not specifically disclose this is done via “cookies”. However, Sonnenfeld teaches that communication between the server and the client computer system can consist of “cookies”, as defined in applicant’s specification (Col 11, lines 47-52), and that communication circuit may be accomplished at predefined intervals (Col 2, lines 15-19). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a means for updating cookies at a predefined interval and to provide a circuit for transmitting the updated cookies to the web server.

22. Regarding claims 5 and 6, Derzay et al discloses state management of examination information passed in a circuit between web client and web server (Col 13, lines 38-65). Derzay et al does not specifically disclose that this file is a cookie. Sonnenfeld discloses a means of transmitting files to and from the client computer from the network server (Col 11, lines 35-38) and storing the transmitted files, including associated state management information, on the web server (Col 4, lines 16-21). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to transmit and store testing files and their state information in the form of cookies, as previously defined, on the web server.

23. Regarding claims 7 and 8, Derzay et al discloses state management of examination information passed in a circuit between web client and web server including receiving a request and returning a response to the client computer (Col 13, lines 38-65). Derzay et al does not specifically disclose that this file is a cookie. However, Sonnenfeld discloses the storing of files, including cookies, between a web server and a client computer (Col 11, lines 16-56). Sonnenfeld

Art Unit: 3714

further discloses that, for security reasons, cookie files, including current associated state management information, are stored on the web server (Col 12, lines 2-9). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have stored files, including associated state management information as cookies, in unique files on the web server.

24. Regarding claims 11-16, Derzay et al discloses state management of examination information passed in a circuit between web client and web server including receiving a request, returning a response and updating state management files to the web server (Col 13, lines 38-65). Derzay et al does not specifically disclose that this file is a cookie. However, Sonnenfeld discloses the storing of files, including cookies, between a web server and a client computer (Col 11, lines 16-56). Sonnenfeld further discloses that, for security reasons, cookie files, including current associated state management information, are stored on the web server (Col 12, lines 2-9). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a system for state management of examination information passed in a circuit between web client and web server including receiving a request, returning a response and updating state management files to the web server, wherein the files passed through the circuit are cookies. Combining the system disclosed by Derzay et al with the teachings of Sonnenfeld produces a state management update system that utilizes the most commonly used method of state file transfer.

25. Regarding claims 17 and 40, Derzay et al discloses a Graphical User Interface (GUI) in use by the web server and web client to provide a circuit for listing examination questions and content, displaying the content on multiple pages, and providing a system clock for examination timing (Col 13, lines 20-65 and Col 14, lines 1-32). Derzay et al does not specifically disclose a



calculator on the view. However, Sonnenfeld teaches that a calculator may be placed in the view for the use of an individual during an examination process (Col 3, lines 25-27). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a GUI for the web server and web client to provide a circuit for listing examination questions and content, displaying the content on multiple pages, and providing a system clock for examination timing and a calculator for the convenience of the examination user. Combining the system disclosed by Derzay et al with the teaching of Sonnenfeld produces a GUI with a broader base of convenience for use by the examination user.

26. Regarding claims 18-19, Derzay et al discloses software code on a computer readable medium for a web server with secure access (Col 10, lines 11-22), start an examination session, retrieve and display examination content via the web browser and provide the current state of the examination for each session (Col 13, lines 20-65 and Col 14, lines 1-20). Derzay et al does not specifically disclose the state management file is a cookie. However, Sonnenfeld teaches that communication between the server and the client computer system can consist of “cookies”, as defined in applicant’s specification (Col 11, lines 47-52). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a system with a web server with secure access to start an examination session, retrieve and display examination content via the web browser and provide the current state of the examination for each session through the use of a state management file such as a cookie. Combining the system disclosed by Derzay et al with the teaching of Sonnenfeld, produces a state management system with a more robust and readily usable state management file.

Art Unit: 3714

27. Regarding claims 20-23, Derzay et al discloses a programmed computer (claims 20-21) and a computer readable medium with stored computer executable software (claims 22-23) for a web server with a memory with at least one region for storing computer executable program code to inquire whether a candidate is allowed to access an examination content (Col 10, lines 11-22), to start an examination session, retrieve and display examination content via the web browser and provide the current state of the examination for each session (Col 13, lines 20-65 and Col 14, lines 1-20). Derzay et al does not specifically disclose the state management file is a cookie. However, Sonnenfeld teaches that communication between the server and the client computer system can consist of “cookies”, as defined in applicant’s specification (Col 11, lines 47-52). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a system with a web server with secure access to start an examination session, retrieve and display examination content via the web browser and provide the current state of the examination for each session through the use of a state management file such as a cookie. Combining the system disclosed by Derzay et al with the teaching of Sonnenfeld, produces a state management system with a more robust and readily usable state management file.

28. Regarding claims 28 and 32, Derzay et al discloses that examination requests may be made in advance and that timing is considered important in bringing together the examination computer and user (Col 13, lines 38-65). Derzay et al does not specifically disclose that the examination activity is linked to an identification code for specific time and place. However, Sonnenfeld teaches that an identification code is required to access a testing site (Col 51, lines 19-25) and it is common and well-known practice when scheduling any examination or testing

Art Unit: 3714

activity that examiners or candidates will be required to log onto the examination system at a specific time and at a specific place in order to provide monitorable examination activity.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to produce a system with an identification code assigned to a candidate for monitorable examination activity to begin at a specified time and place. Combining the system disclosed by Derzay et al with the teaching of Sonnenfeld produces an examination test facility that is fully monitorable on a per test and per candidate basis.

29. Regarding claim 38, Derzay et al discloses an examination system in which examination content is provided to a web browser and repeatedly recording the stat of the examination session (Col 13, lines 20-65). Derzay et al does not specifically disclose receiving an identification code for the candidate or determining whether the candidate is allowed to enter an examination session. However, Sonnenfeld teaches the use of identification codes to log onto a system and be allowed to enter an examination session (Col 51, lines 19-29). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to produce a system in which examination content is provided to a web browser and repeatedly recording the stat of the examination session and, using an identification code, be allowed to log onto a system and enter an examination session. . Combining the system disclosed by Derzay et al with the teaching of Sonnenfeld produces a system with secure examination access.

30. Regarding claims 41 and 42, Derzay et al discloses a method of implementing a Graphical User Interface (GUI) in use by the web server and web client to provide circuits for listing examination questions and content, displaying the content on multiple pages, and providing a system clock for examination timing (Col 13, lines 20-65 and Col 14, lines 1-32).

Art Unit: 3714

Derzay et al does not specifically disclose a question flag or color on the view. However, Sonnenfeld teaches that an examination view screen may be designed in a plurality of manners for the comfort of the user, including modifying fields, links and buttons. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a GUI for the web server and web client to provide a circuit for listing examination questions and content, displaying the content on multiple pages, and providing an examination view screen may be designed in a plurality of manners for the comfort of the user, including modifying fields, links and buttons, including color as a design choice. Combining the system disclosed by Derzay et al with the teaching of Sonnenfeld produces a GUI with a view customizable for the examination process required by the users.

31. Claims 26, 30 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Derzay et al in view of Bowman-Amuah (US Patent 6,332,163).

32. Regarding claims 26 and 30, Derzay et al does not specifically disclose that a digital certificate is provided to ensure secure access to the examination system. However, Bowman-Amuah teaches that a digital certificate is the primary method used in a testing system to provide secure SSL client authentication (Col 80, lines 44-54). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a system wherein the system provides a digital certificate to ensure secure access to the examination system. Combining the system disclosed by Derzay with the teaching of Bowman-Amuah produces a secure access to an examination system that may be used over an open network such as the Internet.

33. Regarding claim 36, Derzay et al does not specifically disclose that communication between the web server and web browser is encrypted. However, Bowman-Amuah teaches that

Art Unit: 3714

the need for encryption is strong when utilizing examination systems for monitoring over an open network such as the Internet (Col 81, lines 43-51). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a system with encrypted communication between the web browser and the web server. Combining the examination system disclosed by Derzay et al with the teaching of Bowman-Amuah provides a system better able to decrease the chances of information theft.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-23 and 25 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 3714

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

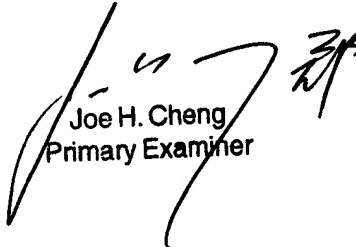
Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L Sotomayor whose telephone number is 703-305-4558.

The examiner can normally be reached on 6:30-4:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7768 for regular communications and 703-308-7768 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4558.

jls  
November 19, 2002

  
Joe H. Cheng  
Primary Examiner